

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Christopher Love Williams, #281434,)
) Civil Action No. 6:07-2409-DCN-WMC
Plaintiff,)
)
vs.)
)
Jon Ozmint, Director of SCDC, et al.,)
)
Defendants.)

)

O R D E R

This matter is before the court on the plaintiff's "motion for caselaw which law library does not have/ effective access to law books." The plaintiff, who is proceeding *pro se*, filed this action pursuant to Title 42, United States Code, Section 1983, against over 60 defendants, claiming that his constitutional rights have been violated. Summary judgment was recently granted to defendant American Amenities, Inc., and a motion for summary judgment by the remaining defendants is now pending before this court.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983.

The plaintiff is currently incarcerated at the Kirkland Correctional Institution Maximum Security Unit, a facility of the South Carolina Department of Corrections ("SCDC") located in Columbia, South Carolina. He is serving a life sentence following his convictions on charges of murder, kidnaping, and assault with intent to kill.

The plaintiff claims that he has been denied access to certain case law that he claims he needs to respond to the defendants' motions. The defendants argue that the plaintiff fails to establish that he has pursued his request for specific legal materials through

proper administrative channels prior to filing his motion. SCDC Policy and Procedure No. GA-01.03, "Inmate Access to Court," provides, in part:

9. MAXIMUM SECURITY UNIT (MSU), SPECIAL MANAGEMENT UNIT (SMU) INMATE ACCESS TO THE LAW LIBRARY: To ensure equal access to the courts, inmates in... the Maximum Security Unit will be authorized to request and receive law materials from the law library in their cells as follows: (No law materials will be maintained in an SMU or in the MSU, however Wardens may allow the SMU or MSU to maintain current copies of commonly requested SCDC Policies/Procedures for use by inmates. The Warden must ensure that these copies are properly updated with appropriate changes.)

9.1 When an inmate is placed in the Security Management Unit (Pre-Hearing Detention, Security Detention, Protective Custody, Safekeeper) *s/he will have access to a copy of the reference packet prepared by the Office of General Counsel titled "How to Use the Law Library."* When an inmate is placed in the Maximum Security Unit, the inmate will be given a copy of this reference packet.

9.2 An inmate may, at any time, complete an SCDC Form 9-2, "Law Book Request," to request up to three (3) law book(s) or SCDC policies/procedures. It is the inmate's responsibility to date this form. Verbal requests will not be sufficient. The Officer or staff member receiving the request will write the date and time that s/he was given the same on the SCDC Form 9-2, "Law Book Request." Within three (3) working days (Monday through Friday with holidays excluded), the institutional Librarian/designee will ensure that the inmate receives up to three (3) of the books or SCDC policies/procedures that the inmate requested on the SCDC Form 9-2, "Law Book Request," provided that the books or policies/procedures are available **and are not restricted.** (NOTE: Books and policies/procedures will be distributed on a first-come, first-served basis. Restricted policies/procedures will not be provided to inmates.) These books/materials will come from the institutional satellite and/or core law library and will be delivered to the inmate after the library has closed for the evening/weekend. [NOTE: If the inmate can demonstrate a pending court deadline, the books will be delivered to his/her cell within one (1) working day (Monday through Friday with holidays excluded).] With the approval of the Warden, law clerks may be allowed to deliver and pick-up law books from the SMU. Once the book has been brought to the inmate, this date and time will then be indicated on the SCDC Form 9-2.

9.3 If the inmate requires further assistance in completing the "Law Book Request" or in locating information kept in the law library, s/he may request additional assistance from the Librarian or his/her designee.

9.4 The inmate will be permitted to keep the law materials for one (1) evening. In the morning, prior to the law library opening, the institutional Librarian or designee will return to the unit, and the inmate will be required to return the materials. (NOTE: If the materials are delivered to the inmate on a Friday evening and if the library is closed for the weekend, s/he may be permitted to keep the books until Monday morning. Likewise, if the materials are delivered on the evening prior to a holiday, the inmate may be permitted to keep the books until the morning of the first working day.)

9.5 Inmates will not receive additional law materials until the original books have been returned.

9.6 Once the inmate returns the law materials and the Librarian verifies that they have been received in the same condition as they were delivered, s/he will complete the appropriate sections on SCDC Form 9-2, "Law Book Request," and forward a copy to the inmate who borrowed the law materials. The Librarian will maintain one (1) copy of the form on file in the law library. The completed SCDC Form 9-2, "Law Book Request," will be kept on file in the institution for six (6) months so that documentation is maintained regarding the inmate's access to the law materials.

9.7 In instances when the information the inmate requires is not available in the law library, e.g., if the institution only has a satellite law library, the inmate may request the materials as per Procedure 14., below.

9.8 The Warden or the Librarian, at his/her discretion, may provide the inmate(s) with copies of the cases and/or any SCDC policies/procedures s/he has requested in lieu of the law books or the Library's copy of the SCDC policy/procedure. [NOTE: This information should be noted on SCDC Form 9-2, "Law Book Request," by the Warden or the Librarian. The inmate will be required to sign the form to indicate that s/he has received copies of the requested materials. One (1) copy of the Form 9-2 will be given to the inmate at this time, and one (1) copy will be maintained on file by the Librarian.] Note: Any copies provided to the inmate will be subject to the same time limits as the books in Paragraph 9.4 above.

14. MATERIALS NOT AVAILABLE IN THE LAW LIBRARY: The core law libraries contain all of the necessary information for inmates to 1) challenge or appeal their sentence, directly and collaterally; and 2) challenge the conditions of their confinement. If material that the inmate requires is not available in a satellite law library, the inmate may send a completed SCDC Form 19-11, "Request to Staff Member," (indicating exact name, title, code, etc.,) to his/her institutional librarian/designee who will obtain the required information from the nearest core law library. If the inmate requires a recently superseded policy/procedure, the inmate may send a completed SCDC Form 19-11, "Request to Staff Member," (indicating exact name, title, number, etc.,) to his/her institutional librarian/designee who will obtain the superseded policy/procedure from the Division of Policy Development. (NOTE: Requests for copies must come from the institutional Librarian and not directly from the inmate or they will be returned to the inmate without action.) The institutional Librarian or designee will be responsible for forwarding the materials to the appropriate inmate.

SCDC Policy and Procedure No. GA-01.03 (emphasis in original.)

As argued by the defendants, there is no evidence that the plaintiff has completed a SCDC Form 9-2, "Law Book Request," or a SCDC Form 19-11, "Request to Staff Member," with regard to any of the materials or cases identified in his motion. The exhibits attached to the plaintiff's motion show that the plaintiff has requested many law books; however, the books cited in his motion are not listed on these requests. Accordingly, there is no evidence that the identified materials are unavailable to the plaintiff from sources within the SCDC.

Based upon the foregoing, the plaintiff's motion (doc. 129) is denied.

IT IS SO ORDERED.

s/William M. Catoe
United States Magistrate Judge

May 7, 2008
Greenville, South Carolina